



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Food and Drug Administration - Use of Appropriations for "No Red Tape" Buttons and Mementoes

File: B-257488

Date: November 6, 1995

DIGEST

1. Food and Drug Administration may use its appropriations to purchase "No Red Tape" buttons to promote the effectiveness and efficiency of employees, thereby furthering an authorized agency purpose.
2. Under the Government Employees' Incentive Awards Act, 5 U.S.C. §§ 4501-4506, Food and Drug Administration appropriations are available for the purchase of coffee mugs and pens for federal employees if these items are intended to be presented as honorary or informal recognition awards.

DECISION

The Director, Division of Accounting, Food and Drug Administration (FDA), Department of Health and Human Services, asks whether FDA appropriations may be used to purchase "No Red Tape" buttons to remind employees to carry out their functions efficiently, and for awards, such as coffee mugs and pens, which would be presented to speakers and federal employees at FDA District Conferences. For reasons discussed below, FDA appropriations are available for these purchases.

BACKGROUND

The Office of Management Systems (OMS), Center for Food Safety and Applied Nutrition, FDA, would like to purchase buttons inscribed with the logo, "No Red Tape." As part of an office campaign to promote team building, efficiency, and effectiveness, OMS would distribute these buttons to its staff of 130 to voluntarily wear while at work. OMS intends the buttons to serve as visible reminders to staff and customers that OMS' mission is not to say "no" but to find ways to work together to satisfy its customers' needs. FDA states that these buttons are not

personal gifts but, rather, are a management tool that would provide a cost-effective way of displaying the OMS mission statement. The buttons would cost less than \$150.

In addition, FDA would like to purchase items, such as coffee mugs, pens or other inexpensive mementoes, to award to participants and to present to guest speakers at District Conferences. The mementoes, emblazoned with the theme adopted for the conference, would serve as a remembrance of a particular task, occasion, or a job well done. FDA believes that these tokens, while inexpensive (\$2 to \$3 each), are very important in encouraging a sense of teamwork and identity with the organization, and in building employee morale.

FDA would charge the expenses in question to its Salaries and Expenses appropriation, which is provided for the necessary expenses of the agency. Pub. L. No. 104-31 (Sept. 30, 1995). The Senate report on the fiscal year 1995 FDA appropriation stated that FDA's mission is to ensure that (1) food is safe, pure, and wholesome; (2) cosmetics are safe; (3) human and animal drugs, biological products, and therapeutic devices are safe and effective; and (4) radiological products and use procedures do not result in unnecessary exposure to radiation. S. Rep. No. 290, 103d Cong., 2d. Sess. 132 (1994).

DISCUSSION

"No Red Tape" Buttons

We have been frequently asked about the purchase of relatively inexpensive items for distribution to agency employees as incentives to boost morale or increase support for a particular program. The question, of course, is whether the agency is authorized to use its appropriation for the particular expenditure. 31 U.S.C. § 1301(a). If the item in question is not specifically authorized by any appropriation act or other statute, the standard for measuring the propriety of the expenditure is the "necessary expense" rule. 66 Comp. Gen. 356, 359 (1987). Under this rule, an expenditure is permissible if it is reasonably necessary to carry out an authorized function or will contribute materially to the effective accomplishment of that function, and is not otherwise prohibited by law. *Id.*

The application of the "necessary expense" rule is, in the first instance, a matter of agency discretion. However that discretion is not unfettered. For example, we rejected the use of appropriated funds to pay for plastic ice scrapers imprinted with the inscription "U.S. Army Corps of Engineers - Huntsville Division - Please don't drink and drive" for Huntsville employees. B-223608, Dec. 19, 1988. The Corps argued that the ice scrapers served a valuable promotional purpose in support of the Huntsville division's safety program. However, because the Corps did not demonstrate how, if at all, the ice scrapers addressed an occupational health and

safety hazard not shared by the public as a whole, we did not view the expense as necessary to the Corps' discharge of its functions. Id. Similarly, we did not accept an IRS argument that the distribution of T-shirts stamped with the Combined Federal Campaign (CFC) logo to IRS Memphis Service Center employees contributing five or more dollars per pay period to CFC was a necessary expense to motivate its employees to contribute to CFC. 70 Comp. Gen. 248 (1991). In each of these cases, we balanced our respect for agency discretion against the clear potential for abuse of taxpayers dollars if we were to accept the agency's rationale. See 1 GAO Principles of Federal Appropriations Law p. 4-128 (2d. ed. 1991). Therefore, in determining the propriety of a proposed expenditure, we will consider whether the relationship between an authorized function and a proposed expenditure is so attenuated as to take it beyond the agency's legitimate range of discretion. B-247563.2, May 12, 1993; B-223608, Dec. 19, 1988.

Under a "necessary expense" analysis, where the item, such as the buttons at issue here, has no intrinsic value to its recipient, and is designed solely to assist in achieving internal agency management objectives, the agency must show that the item will contribute to the agency's mission. We think FDA has demonstrated the requisite nexus between its appropriation's purpose and the "no red tape" buttons. The message is clearly informational and directed at the promotion of an internal agency management objective. The button serves much the same purpose as other internal agency informational media such as posters, memos, etc., reminding agency employees of institutional objectives and goals. In these circumstances, the purchase of the buttons can be considered a necessary expense that is incidental to the purpose of the FDA appropriation. We, therefore, do not object to the use of appropriations for this proposed purchase.

FDA District Conference Mementoes

FDA proposes to purchase inexpensive mementoes to award to federal employees and to present to guest speakers at its District Conferences. The Government Employees' Incentive Awards Act (Act), 5 U.S.C. §§ 4501-4506, authorizes agency heads to "pay a cash award to, and incur necessary expenses for the honorary recognition" of, federal employees. 5 U.S.C. § 4503. For example, the purchase of telephones (nominal value of \$27) to be presented as honorary awards is an allowable use of appropriated funds under this Act. 67 Comp. Gen. 349, 350 (1988). See also B-184306, Aug. 27, 1980 (desk medallions for use as paperweights). The Act authorizes the Office of Personnel Management (OPM) to prescribe regulations and instructions under which agency awards programs will be carried out. 5 U.S.C. § 4506. In August 1995, OPM issued regulations defining an "award" as "something bestowed or an action taken to recognize and reward individual or team achievement that contributes to meeting organizational goals or improving the efficiency, effectiveness, and economy of the government or is otherwise in the public interest." 60 Fed. Reg. 43936 (to be codified at 5 C.F.R. § 451.102). Under

these regulations, mugs and pens are acceptable as awards so long as they are "bestowed . . . to recognize and reward . . . achievement" Accordingly, if FDA proposes to present the mugs and pens at issue here to employees in honorary recognition of an achievement that otherwise meets the criteria set forth in OPM regulations,¹ the proposed purchase may be deemed a necessary expense that is chargeable to FDA appropriations. However, FDA's appropriations are not available to purchase such items for distribution to all conference attendees as a remembrance of the event. The items, in such case, could not be characterized as "honorary" in nature. See e.g., 53 Comp. Gen. 770 (1974), where decorative ashtrays, which were distributed to conference attendees, were deemed personal gifts and hence, not a necessary expense of the agency's appropriations.

We do not object to presenting such mementoes to District Conference guest speakers if the purpose of the speech is to further an authorized agency purpose. See, e.g., B-208729, May 24, 1983, where an honorarium paid to a guest speaker was deemed a necessary expense of a program that advanced an agency objective.

/s/Robert Murphy
for Comptroller General
of the United States

¹60 Fed. Reg. 43946 (to be codified at 5 C.F.R. § 451.104(a)).

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